

January 15, 2015

Office of General Counsel
Federal Election Commission
999 E. Street N.W.
Washington, D.C. 20463

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COMMISSION

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OFFICE OF GENERAL
COUNSEL

MUR 6912

Dear General Counsel,

~~Re: Arizona Republican Party (C00008227) Complaint~~

My name is Ardith Hildebrant and I am currently running uncontested for Treasurer of the Arizona Republican Party (C00008227) commonly referred to here as AZGOP.

In preparation for becoming the possible new AZGOP Treasurer on January 24, 2015 I have begun looking into the financial records of this organization. The intent being to see how it has been using, accounting for and reporting its financial activities as required by law.

Having done a preliminary review of campaign finance reports for the last two years (2013-2014) I need to raise the following three major concerns which are listed and described as follows.

- #1 – Questionable fund transfers between fed and non-fed accounts
- #2 – Exorbitant appearing merchant fee disbursements
- #3 – Large disbursements to BMO-Harris Bank with no descriptions
- #3 – Running and growing negative bank balances

Concern #1 - Questionable fund transfers between fed and non-fed accounts

After an initial review it appears that there were an extraordinary amount of transfers both ways between these accounts during years 2013 and 2014.

Note: An earlier 2009 AZGOP FEC audit finding stated "Generally, a political committee may not transfer funds to its federal account from any other account or accounts maintained for the purpose of financing activity in connection with non-federal elections, except when committee follows specific rules for paying for shared federal/non-federal election activity. 11CFR §§ 102.5(a)(1)(i) and 106.5(g)."

This review was based on the campaign finance reports filed during these periods

2013 with the Arizona Secretary of State – for the non-fed account

2013 with the Federal Elections Commission – for the federal account
2014 with the Arizona Secretary of State – for the non-fed account
2014 with the Federal Elections Commission – for the federal account

Attachment A lists the transfers of monies reported during this two-year time frame. (Note: Without access to the actual bank statements for these accounts it is not possible to determine with certainty what improprieties exist.)

Refer to Attachment A – AZGOP Schedule of Transfers Between Non-Federal and Federal Accounts

Background information

Robert Graham was elected Chairman of the Arizona Republican Party in January of 2013. Timothy Lee was re-elected it's Treasurer at the same time.

At that time civil legal action was known to be pending against Robert Graham's organization, Americans for Responsible Leadership (ARL). Robert was one of two defendants in this action. When confronted with this information he stated the case was "dropped." Taking him at his word, an offer was made to retract the negative publicity if he produced the documentation showing civil legal action had been dropped. He declined to offer such evidence.

Later that year (October of 2013) the Superior Court of California ruled against ARL and the other defendant. It found in favor of California's FAIR POLITICAL PRACTICES COMMISSION (FPPC) that ARL had in fact violated California's Political Reform Act - MAKING OF CONTRIBUTION WITHOUT DISCLOSING NAME OF CONTRIBUTOR. For this a settlement was reached and Robert Graham ordered to pay a portion of the \$500,000 specified jointly against ARL and Center To Protect Patient Rights (CPPR - another defendant) payable to the FPPC.

Refer to Attachment B – AZGOP Stipulation for Entry of Judgment

(Note: The online copy of this document had the case # scrubbed for some unknown reason, therefore page 1 shows the official case # in a hand written form.)

Given this history and the magnitude of the transfers made there is concern that monies may have been both improperly moved and reported. This may have caused contribution receipts to have been overstated. Such overstatement would have had the effect of exaggerating the AZGOP fundraising numbers making them appear much higher and impressive than they really were.

Concern #2 – Merchant Fees

Finance campaign reports show AZGOP reportedly paid unbelievably high “merchant fees” to BMO-Harris Bank over the last two years. Typically these fees are for maintaining bank accounts and processing credit card transactions. In 2013 those fees for the year appeared reasonable. In 2014, however, the fees grew to the unbelievable total for the year of \$41,277.16 (this is averages over \$3400/month based on 12 months.)

Refer to Attachment C – AZGOP Schedule of Merchant Fees

Doing a rough calculation AZGOP would have had to process over \$300,000 per month in credit card transactions to result in such high fees. Are these really legitimate merchant fees or another way to cover for payment of credit card balances or payment of “debt?” Having no debt showing on campaign finance reports makes these exorbitant fees highly questionable.

Additionally, the September rash of payments of “even dollar amounts” smack of loan/debt payments and not fees based on transactions.

Concern #3 – Disbursements to BMO with no descriptions

Why are there so many large disbursements to BMO – Harris Bank listed in FEC reports tagged with “See Memo” for explanation but no memo entries exist. Thirty-four such disbursements were reported having no description as to why payments were made. These are detailed in the following attachment. These entries total \$83,329.57.

Refer to Attachment D – AZGOP Disbursements to BMO with no Descriptions

This is sloppy and lax reporting or is it intentional hoping to avoid disclosure? I find that raises red flag and screams out to question the legitimacy of these transactions.

Concern #4 – Negative Bank Balances

Campaign finance reports show AZGOP reporting running negative bank balances for the last two months.

Refer to Attachment E – AZGOP Negative Bank Balances

When questioned about this Robert Graham stated that there was an inadvertent failure to record a deposit. If this was the case the time has long passed for this to have been corrected and an amended report filed.

How is it possible to have negative bank balances and show no debt? How does this happen?

Wrap up

In conclusion it seems the more you look into the AZGOP financial reporting over the past two years, the murkier things get.

It is with these concerns that I am making this complaint. New AZGOP officers will soon be sworn in on January 24, 2015. It is therefore critically important to get these concerns registered with your Federal Elections Commission so an investigation can begin as quickly as possible. Arizona taxpayers and Republican supporters deserve transparency, honesty and highly ethical accountability in both government and partisan elections.

I thank you in advance for considering this complaint and making the necessary inquiries/audits to determine the legitimacy of the claims made herein. Hopefully any violations be identified and remedied within a reasonable time period.

Thank you again.

Respectfully submitted,



Ardith D. Hildebrand

Arizona State Committeeman and possible future Arizona Republican Party Treasurer

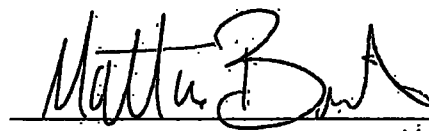
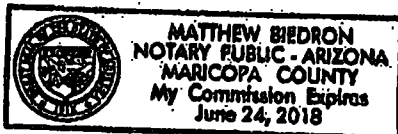
Scottsdale, AZ 85258

NOTARY:

State of Arizona

County of MARICOPA

This instrument was subscribed and sworn (affirmed) before me this 16 day of JAN, 2015.



Notary Public

State of Arizona, County of Maricopa

My commission expires:

June 24 2018

Date

Attachment B – AZGOP Stipulation for Entry of Judgment

34-2012-00131550-CW-PT-
GDS

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Attorneys for Defendants
AMERICANS FOR RESPONSIBLE LEADERSHIP

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

FAIR POLITICAL PRACTICES COMMISSION,
a state agency,

Plaintiff,

v.

Case No.

STIPULATION FOR ENTRY OF
JUDGMENT

1 THE CENTER TO PROTECT PATIENTS
2 RIGHTS and AMERICANS FOR
3 RESPONSIBLE LEADERSHIP

(IN FAVOR OF PLAINTIFF
AGAINST DEFENDANTS)

UNLIMITED CIVIL ACTION

4 Defendants.

5
6 Plaintiff Fair Political Practices Commission ("FPPC" or the "Commission"), a
7 state agency, by its attorneys, and Defendants the Center to Protect Patient's Rights
8 ("CPPR") and Americans for Responsible Leadership ("ARL") (collectively
9 "Defendants"), by their attorneys, enter into this Stipulation to resolve all factual and
10 legal issues pertaining to the Complaint for civil penalties filed herewith.
11

12 It is stipulated by and between the parties as follows:

13 Solely for the purposes of this action, that the Complaint on file in this action was
14 properly filed and jurisdiction of the subject matter and of the parties to this action, and
15 venue, are properly in the Sacramento Superior Court. Any defects in the Complaint
16 are expressly waived solely for the purposes of this action.
17

18 Defendants understand, and hereby knowingly and voluntarily waive, any and all
19 procedural rights that they could have exercised in this action if this Stipulation had not
20 been entered into, including, but not limited to, their right to civil discovery, to appear
21 personally at any civil trial held in this matter, to confront and cross-examine witnesses,
22 and to have the trial presided over by an impartial judge, and heard and decided by a
23 jury.
24

25 **STIPULATED STATEMENT OF LAW AND FACTS**

26 1. **THE PARTIES AND BACKGROUND INFORMATION**

27 Fair Political Practices Commission
28

1 The FPPC is a state agency created by the Political Reform Act of 1974 (the
2 "Act"). (Government Code sections 81000-91014).

3 Plaintiff FPPC has primary responsibility for the impartial and effective
4 administration and implementation of the Act. (Government Code section 83111).

5 Pursuant to Government Code section 91001, subdivision (b), Plaintiff FPPC is the civil
6 prosecutor for matters involving state candidates, state committees, and state election
7 campaigns, and is authorized to maintain this action under Government Code sections
8 91001, subdivision (b), 91004, 91005, and 91005.5. The FPPC has concluded after a
9 thorough investigation that all actions undertaken by Defendants, and their Directors,
10 Officers, employees, and agents in relation to the conduct described in the Complaint
11 were neither knowing nor willful within the meaning of Government Code
12 section 91000(a).
13

14
15 Attorney General of California

16 The Attorney General for the State of California is a State Constitutional officer
17 whose duties include serving as the chief law enforcement officer for the State and also
18 as civil counsel to California State agencies and commissions. Government Code
19 Section 83117 provides that, upon request of the FPPC, the Attorney General shall
20 provide legal advice and representation to the Commission. The FPPC requested such
21 advice and representation from the Attorney General in this matter.
22

23
24 Defendant Center to Protect Patient Rights

25 Defendant CPPR is a bona fide non-profit corporation organized in 2009 and
26 recognized by the IRS as a tax exempt organization under Internal Revenue Code,
27 section 501(c)(4). CPPR is located in Phoenix, Arizona. Prior to the events which are
28

1 the subject of this Complaint, CPPR had not made any contributions or expenditures in
2 California.

3 Defendant Americans for Responsible Leadership

4 Defendant ARL is a bona fide non-profit corporation organized in 2011 and has
5 applied for recognition as a tax exempt organization under Internal Revenue Code
6 section 501(c)(4). ARL is located in Phoenix, Arizona. Prior to the events which are the
7 subject of this Complaint, ARL had not made any contributions or expenditures in
8 California.
9

10 2. SUMMARY OF THE LAW

11 Campaign Reporting Requirements

12 An express purpose of the Act, as set forth in Government Code section 81002,
13 subdivision (a), is to ensure that the contributions and expenditures affecting election
14 campaigns are fully and truthfully disclosed to the public, so that voters may be better
15 informed, and so that improper practices may be inhibited. In furtherance of this
16 purpose of disclosure, the Act sets forth a comprehensive campaign reporting system.
17 (Government Code section 84200, *et seq.*)
18

19 Civil Liability

20 Government Code section 91004 provides that any person who negligently or
21 intentionally violates any of the reporting requirements of the Act shall be liable in a civil
22 action for an amount up to the amount(s) not properly reported. Persons who violate
23 Government Code section 84301 and 84302 are liable in a civil action brought pursuant
24 to Government Code section 91004.
25

26 Disclosure Requirements
27
28

1 Section 81002, subdivision (a) of the Act provides that "receipts and expenditures
2 in election campaigns shall be fully and truthfully disclosed in order that the voters may
3 be fully informed and improper practices may be inhibited." Timely and truthful
4 disclosure of the source of campaign contributions is an essential part of the Act's
5 mandate.

6
7 Government Code section 84301 provides that no contribution shall be made by
8 any person in a name other than the name by which such person is identified for legal
9 purposes.

10 Government Code section 84302 provides that no person shall make a
11 contribution on behalf of another, or while acting as the intermediary or agent of
12 another, without disclosing both the name of the intermediary and the contributor.
13
14 2 California Code of Regulations section 18432.5 states that a person is an intermediary
15 for a contribution if the recipient of the contribution "would consider the person to be the
16 contributor without the disclosure of the identity of the true source of the contribution."

17
18 Government Code section 84302 provides that the recipient of the contribution
19 shall include in his campaign statement the full name and street address, occupation,
20 and the name of the employer, if any, of both the intermediary and the contributor.

21 A campaign committee is required to disclose the date and amount of any
22 contribution as well as the identity of any person or entity making a contribution to the
23 committee. (Government Code section 84211). A "contribution" is defined by the Act
24 as "any payment made for political purposes for which full and adequate consideration
25 is not made to the donor." (2 California Code of Regulations section 18215).
26
27
28

1 The FPPC has enacted by regulation special rules for "contributions" made by
2 non-profit organizations. (2 California Code of Regulations sections 18215(b)(1) and
3 18412). Regulation 18412 was promulgated by the Commission in May of 2012, and
4 provides for certain presumptions regarding the source of non-profit "contributions" as
5 follows:

6
7 (a) Application. This regulation establishes rules governing
8 organizations that are formed and operate as tax exempt
9 organizations under Internal Revenue Code Sections
10 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6), as well as
11 federal or out-of-state political organizations, which make
12 contributions or independent expenditures totaling \$1,000 or
13 more from their general treasuries to support or oppose a
14 candidate or ballot measure in California, and report the
15 sources of the funds used to make those contributions or
16 independent expenditures as required by Regulation
17 18215(b)(1).

18 (b) If a donor to such an organization requests or knows that
19 the payment will be used by the organization to make a
20 contribution or an independent expenditure to support or
21 oppose a candidate or ballot measure in California, the full
22 amount of the donor's payment shall be disclosed by the
23 organization as a contribution. For purposes of this
24 regulation, a donor "knows" that a payment will be used to
25 make a contribution or an independent expenditure if a
26 donor makes a payment in response to a message or a
27 solicitation indicating the organization's intent to make a
28 contribution or independent expenditure. An organization
that solicits and receives contributions totaling \$1,000 or
more becomes a committee pursuant to Section 82013(a).

Campaign Disclosure

24 An express purpose of the Act, as set forth in Government Code section 81002,
25 subdivision (a), is to ensure that the contributions and expenditures affecting election
26 campaigns are fully and truthfully disclosed to the public, so that voters may be better
27 informed, and so that improper practices may be inhibited.
28

1 In furtherance of this purpose of disclosure, the Act requires candidates, their
2 controlled committees, and the treasurers of those committees, to file periodic campaign
3 statements and reports, disclosing their financial activities. (Government Code section
4 84200, *et seq.*)

5
6 Government Code section 82013, subdivision (a) provides that any person or
7 combination of persons who directly or indirectly receives \$1,000 or more in a calendar
8 year is a "committee." This type of committee is commonly referred to as a "recipient
9 committee" under the Act.

10 To further ensure that the express purposes of the Act are achieved,
11 Government Code section 84211 prescribes the contents of campaign statements.
12 Government Code section 84211, subdivisions (c) and (i), requires each campaign
13 statement to contain information regarding the total amount of contributions received
14 during the period covered by the campaign statement from persons who have given a
15 cumulative amount of \$100 or more, and information regarding the total amount of
16 expenditures made during the period covered by the campaign statement to persons
17 who have received \$100 or more.
18
19

20 Government Code section 84211, subdivision (f) requires detailed information for
21 contributions of \$100 or more. It provides that if the cumulative amount of contributions
22 received from a person is \$100 or more, and a contribution has been received from that
23 person during the period covered by the campaign statement, the statement must
24 disclose identifying information about the contributor, the date and amount of each
25 contribution received from the contributor during the reporting period, and the
26 cumulative amount of the contributor's contributions.
27
28

1 **3. CIVIL LIABILITY PROVISIONS**

2 Government Code section 91004 provides that any person who intentionally or
3 negligently violates any of the reporting requirements of the Act shall be liable in a civil
4 action in an amount up to the amount(s) not properly reported. Persons who violate
5 Government Code section 84301 and 84302 are liable in a civil action brought pursuant
6 to Government Code section 91004.
7

8
9 **4. SUMMARY OF FACTS**

10 In November 2012, a statewide general election was held in California.
11 Propositions 30 and 32 were on the statewide election ballot. The FPPC, during the
12 course of its review, has determined that both Propositions saw well-funded ballot
13 measure committees opposed to and supportive of their passage created with the
14 California Secretary of State so that they could receive contributions and make
15 expenditures for or in opposition to these measures. One such committee, opposed to
16 one of the ballot measures, was registered with the Secretary of State under the name
17 Small Business Action Committee PAC ("SBAC-PAC"). Other entities planned to
18 engage in issue advocacy on the issues raised by Propositions 30 and 32, which is
19 differentiated under California law from campaign activity.
20

21
22 California law, under the Political Reform Act (Government Code section 81000,
23 et seq.), requires any person (defined to include individuals, entities, and corporations
24 under Government Code section 82047) who receives \$1,000 or more in contributions
25 or makes \$1,000 or more in expenditures to expressly advocate for the passage or
26 defeat of a ballot measure to form a campaign committee and disclose their campaign
27
28

1 activity. The term "express advocacy" has been defined under regulations promulgated
2 by the FPPC to exclude communication which, when considering their timing and tenor,
3 are not for the purpose of attempting to influence the action of the voters.

4 The FPPC has learned that in the spring of 2012, a California-based political
5 consultant and fundraiser embarked on a campaign to raise funds to oppose
6 Propositions 30 and support Proposition 32. After consultation with attorneys, the
7 consultant began raising funds for express advocacy to be given to either the ballot
8 measure committees against Proposition 30 and for Proposition 32, or to SBAC-PAC.
9 He also began raising funds for issue advocacy to be given to Americans for Job
10 Security ("AJS"), a 501(c)(4) non-profit corporation registered in Virginia. The
11 solicitation to contributors gave donors the option, consistent with California law, to
12 either have their contributions reported in campaign disclosure forms by contributing to
13 SBAC-PAC or the ballot measure committees for express advocacy, or not to have their
14 contributions disclosed by donating to AJS for issue advocacy.
15

16 By October 2012, \$29 million from 150 donors had been raised by AJS for issue
17 advocacy. AJS and the staff of the FPPC have determined that the donors' names are
18 not subject to disclosure under California law. In September 2012, with the election for
19 the Propositions less than 60 days away and, after consultation with their attorneys,
20 AJS determined that the remaining funds would no longer be spent on issue advocacy.
21 This was due to their interpretation of a FPPC regulation defining express advocacy,
22 which provides that proximity to the election day is one of the factors to be examined
23 when determining whether the tenor and timing of a communication makes it "express
24 advocacy," even without words such as "Vote No on Proposition 30."
25
26
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1 A decision was made by AJS to contribute the remaining funds, and any other
2 funds that were received, to CPPR, a 501(c)(4) with social views similar to those held by
3 AJS. The funds were explicitly provided with no specific direction as to how they would
4 be used, and could be used for any purpose by CPPR. The funds were provided in
5 three payments, as funds came in from donors: \$4,050,000 on September 10, 2012;
6 \$14,000,000 on October 11, 2012; and \$6,500,000 on October 19, 2012. These
7 transfers were all consistent with California law and not subject to disclosure.
8

9 In making each of the contributions, AJS hoped, but did not require, that CPPR,
10 which shared the same social views of AJS, would assist with the efforts to defeat
11 Proposition 30, , and with efforts to pass Proposition 32. These actions would also be
12 consistent with California law. CPPR contributed approximately \$7,000,000 to AFF on
13 September 11, 2012, of which AFF contributed \$4,080,000 to a new California
14 committee, California Future Fund for Free Markets ("CFF"). CPPR did not solicit any
15 contributions from donors for political purposes in California and communicated with its
16 attorneys during this time period. AFF and CFF shared CPPR's social views. CPPR,
17 which had never previously made contributions in California, inadvertently, or at worst
18 negligently, did not report CPPR as a contributor to AFF although the Commission
19 would have advised CPPR to do so had inquiry then been made of the FPPC. AFF and
20 CFF filed disclosure statements for the contributions in a timely manner disclosing AFF
21 as the source of the contribution to CFF, but did not disclose CPPR's contribution.
22

23 On October 12, 2012, CPPR contributed \$13 million to ARL, and on October 15,
24 2012, it contributed an additional \$5 million to ARL, recommending to ARL that once the
25 funds were received, ARL should use the funds to support common social interests,
26 including support for SBAC-PAC. CPPR did not solicit funds for political purposes in
27 California during this time period, and from the instance of the AFF donation to the
28

1 making of the SBAC-PAC donation, CPPR's donors did not know or have reason to
2 know that their donations, or funds with which their donations were or would be
3 commingled, would be used to make contributions or expenditures in California. On
4 October 15, 2012, ARL transferred \$11 million to SBAC-PAC, disclosing itself as the
5 source of the funding. SBAC-PAC should have been informed by CPPR and ARL that
6 CPPR had just made a contribution to ARL which shared its social views. CPPR should
7 have disclosed itself to SBAC as the source of this contribution. The failure to disclose
8 was inadvertent, or at worst negligent, and due to CPPR's lack of experience with
9 California campaign disclosure law and its lack of knowledge that the Commission staff
10 was available to respond to questions concerning reporting requirements on request by
11 donors and recipients of contributions. During this time period ARL and CPPR
12 communicated with counsel, and acted in good faith.

13
14
15 On October 25, 2012, the FPPC received a complaint that the source of the \$11
16 million contribution to SBAC-PAC was not properly disclosed. The FPPC opened a
17 discretionary audit to verify that the contribution had been properly reported, but ARL
18 asserted the audit was illegal and violative of the First Amendment and the Due Process
19 Clause, among other things, and accordingly declined to produce the requested
20 records. The FPPC and the California Attorney General's office filed suit in Sacramento
21 Superior Court to compel production of the records. The issue was litigated, but prior to
22 final judgment, the FPPC and the Attorney General reached a settlement with ARL on
23 Monday, November 5, 2012. Pursuant to this settlement agreement, with no admission
24 of liability to do so, ARL disclosed additional information regarding the SBAC-PAC
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26
27
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1 donation and CPPR disclosed AJS as its donor. ARL and CPPR made this information
2 public prior to Election Day—Tuesday November 6, 2012.

3 In general, failure to disclose the true source of contributors deprives the public
4 of important knowledge about who is funding campaigns and how it impacts the
5 campaign messages they receive.

6 **FIRST CAUSE OF ACTION**

7
8 **(ONE VIOLATION—MAKING OF CONTRIBUTION WITHOUT DISCLOSING NAME OF**
9 **CONTRIBUTOR)**

10 Section 81002, subdivision (a) of the Act provides that "receipts and expenditures
11 in election campaigns shall be fully and truthfully disclosed in order that the voters may
12 be fully informed and improper practices may be inhibited." Timely and truthful
13 disclosure of the source of campaign contributions is an essential part of the Act's
14 mandate.

15
16 Government Code section 84301 provides that no contribution shall be made by
17 any person in a name other than the name by which such person is identified for legal
18 purposes.

19 Government Code section 84302 provides that no person shall make a
20 contribution on behalf of another, or while acting as the intermediary or agent of
21 another, without disclosing both the name of the intermediary and the contributor.
22
23 2 California Code of Regulations section 18432.5 states that a person is an intermediary
24 for a contribution if the recipient of the contribution "would consider the person to be the
25 contributor without the disclosure of the identity of the true source of the contribution."
26
27
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1 Government Code section 84302 provides that the recipient of the contribution
2 shall include in his campaign statement the full name and street address, occupation,
3 and the name of the employer, if any, of both the intermediary and the contributor.

4 A campaign committee is required to disclose the date and amount of any
5 contribution as well as the identity of any person or entity making a contribution to the
6 committee. (Government Code section 84211). A "contribution" is defined by the Act
7 as "any payment made for political purposes for which full and adequate consideration
8 is not made to the donor." (2 California Code of Regulations section 18215).
9

10 The FPPC has enacted by regulation special rules for "contributions" made by
11 non-profit organizations. (2 California Code of Regulations sections 18215(b)(1) and
12 18412). Regulation 18412 was promulgated by the Commission in May of 2012, and
13 provides for certain presumptions regarding the source of non-profit "contributions" as
14 follows:
15

16 (a) Application: This regulation establishes rules governing
17 organizations that are formed and operate as tax exempt
18 organizations under Internal Revenue Code Sections
19 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6), as well as
20 federal or out-of-state political organizations, which make
21 contributions or independent expenditures totaling \$1,000 or
22 more from their general treasuries to support or oppose a
23 candidate or ballot measure in California, and report the
24 sources of the funds used to make those contributions or
25 independent expenditures as required by Regulation
26 18215(b)(1).

27 (b) If a donor to such an organization requests or knows that
28 the payment will be used by the organization to make a
contribution or an independent expenditure to support or
oppose a candidate or ballot measure in California, the full
amount of the donor's payment shall be disclosed by the
organization as a contribution. For purposes of this
regulation, a donor "knows" that a payment will be used to
make a contribution or an independent expenditure if a

1 donor makes a payment in response to a message or a
2 solicitation indicating the organization's intent to make a
3 contribution or independent expenditure. An organization
4 that solicits and receives contributions totaling \$1,000 or
5 more becomes a committee pursuant to Section 82013(a).

6 On or about October 15, 2012, Defendant CPPR made a contribution to SBAC-
7 PAC, a California campaign recipient committee through its contribution to Defendant
8 ARL, without either Defendant disclosing to SBAC-PAC that CPPR was the initial
9 source of the contribution, thereby depriving SBAC-PAC of the opportunity to make a
10 more complete disclosure and the public of the knowledge of the initial source of the
11 contribution in violation of Government Code sections 84301 and 84302. CPPR and
12 ARL's decisions relating to disclosure were either inadvertent, or at worst, negligent.
13 After diligent inquiry, the FPPC has concluded that these actions were neither knowingly
14 nor willfully made under Government Code sections 84301, 84302 or 91000(a).

15 **SECOND CAUSE OF ACTION**

16
17 **(ONE VIOLATION—MAKING OF CONTRIBUTION WITHOUT DISCLOSING NAME OF
18 CONTRIBUTOR)**

19 Section 81002, subdivision (a) of the Act provides that "receipts and expenditures
20 in election campaigns shall be fully and truthfully disclosed in order that the voters may
21 be fully informed and improper practices may be inhibited." Timely and truthful
22 disclosure of the source of campaign contributions is an essential part of the Act's
23 mandate.

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3 another, without disclosing both the name of the intermediary and the contributor.
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5 for a contribution if the recipient of the contribution "would consider the person to be the
6 contributor without the disclosure of the identity of the true source of the contribution."

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10 and the name of the employer, if any, of both the intermediary and the contributor.

12 A campaign committee is required to disclose the date and amount of any
13 contribution as well as the identity of any person or entity making a contribution to the
14 committee. (Government Code section 84211). A "contribution" is defined by the Act
15 as "any payment made for political purposes for which full and adequate consideration
16 is not made to the donor." (2 California Code of Regulations section 18215).

18 The FPPC has enacted by regulation special rules for "contributions" made by
19 non-profit organizations. (2 California Code of Regulations sections 18215(b)(1) and
20 18412). Regulation 18412 was promulgated by the Commission in May of 2012, and
21 provides for certain presumptions regarding the source of non-profit "contributions" as
22 follows:

24 (a) Application. This regulation establishes rules governing
25 organizations that are formed and operate as tax exempt
26 organizations under Internal Revenue Code Sections
27 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6), as well as
28 federal or out-of-state political organizations, which make
contributions or independent expenditures totaling \$1,000 or
more from their general treasuries to support or oppose a
candidate or ballot measure in California, and report the

sources of the funds used to make those contributions or independent expenditures as required by Regulation 18215(b)(1).

(b) If a donor to such an organization requests or knows that the payment will be used by the organization to make a contribution or an independent expenditure to support or oppose a candidate or ballot measure in California, the full amount of the donor's payment shall be disclosed by the organization as a contribution. For purposes of this regulation, a donor "knows" that a payment will be used to make a contribution or an independent expenditure if a donor makes a payment in response to a message or a solicitation indicating the organization's intent to make a contribution or independent expenditure. An organization that solicits and receives contributions totaling \$1,000 or more becomes a committee pursuant to Section 82013(a).

On or about September 11, 2012, Defendant CPPR made a contribution to CFF by first making a contribution to AFF, which then contributed to CFF without disclosing that CPPR had just made the contribution to AFF, thereby depriving the public of the knowledge of the initial source of the contribution in violation of Government Code Sections 84301 and 84302. CPPR and AFF's decisions relating to disclosure were either inadvertent, or at worst negligent. After diligent inquiry, the FPPC has concluded that these actions were neither knowingly nor willfully made under Government Code sections 84301, 84302 or 91000(a).

ENTRY OF JUDGMENT AND RELEASE

For the stated violations of the Political Reform Act, Plaintiff FPPC and all Defendants stipulate that a final judgment be issued and entered in the form of the order attached hereto and made a part hereof as Exhibit "A," in favor of Plaintiff FPPC, and against all Defendants, as follows: In the amount of \$500,000 against Defendants CPPR and AFF, for the first cause of action, as set forth in the Complaint; in the amount

1 of \$500,000 against Defendant CPPR and for the second cause of action, as set forth in
2 the Complaint, for a total civil penalty of \$1,000,000. Payment of this amount shall be
3 made by cashier's check, payable to the "General Fund of the State of California," upon
4 the execution and filing of this stipulation.

5
6 ~~The parties shall each bear their own attorney's fees and costs.~~

7 It is further stipulated by and between the parties as follows:

8 (A) Defendant CPPR will file a major donor statement (Form 481) showing a
9 contribution to CFF and to SBAC-PAC as set forth herein. The FPPC agrees, that as
10 part of the consideration for this stipulation, CPPR: (i) is not and will not be required to
11 file as a committee under Government Code section 84200 (a)-(b); (ii) is not and will
12 not be required to file a Form 450; and (iii) is not and will not be required to disclose any
13 of its donors as part of these disclosures;
14

15 (B) The FPPC agrees, as part of the consideration for this Stipulation, and as an
16 integral part of this dispute resolution process, that the above disclosures, when filed,
17 represents full compliance with all applicable statutes and regulations and that it will not
18 dispute the validity of the disclosure or cause CPPR the further expense of an audit.
19

20 (C) The FPPC agrees, as part of the consideration for this Stipulation, and as an
21 integral part of this dispute resolution process, that the Letter sent by ARL to SBAC-
22 PAC on November 5, 2012, disclosing that ARL acted as an intermediary for the SBAC-
23 PAC contribution, represents full compliance with all applicable statutes and regulations
24 and that it will not dispute the validity of the disclosure or cause ARL the further
25 expense of an audit.
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1 (D) Upon execution of this Stipulation, and in return for the valuable
2 consideration herein, the FPPC releases, waives, and abandons any and all
3 administrative claims, civil claims, and any other claims it may have within its jurisdiction
4 against the Defendants, including, but not limited to, those stated in the instant action
5 filed by Plaintiff in the Superior Court of the State of California and any alleged
6 violations arising from any other transactions that occurred during the 2012 election
7 season, any and all events which in any way arise out of the implementation and/or
8 execution of the Stipulation, and any and all other claims it may have within its
9 jurisdiction, including those against Defendants' current and former Directors, Officers,
10 employees, and agents including, but not limited to, those which arise out the operative
11 facts of the instant action filed by Plaintiff in the Superior Court of the State of California,
12 any alleged violations arising from any other transactions that occurred during the 2012
13 election season, and any and all events which in any way arise out of the
14 implementation and/or execution of the Stipulation. And the FPPC unconditionally
15 releases and forever discharges both as to Defendants, and Defendants' current and
16 former Directors, Officers, employees, and agents, any and all known and unknown
17 claims, demands, actions, causes of action, and any injuries or damages that now exist
18 or that may arise in the future based upon or arising out of, in whole or in part,
19 omissions, acts, or events occurring prior to the Parties' execution of this Settlement
20 Agreement including, without limitation: (1) any and all claims pertaining to any alleged
21 violation of the Act, including, but not limited to, those stated in the instant action filed by
22 Plaintiff in the Superior Court of the State of California, any alleged violations arising
23 from any other transactions that occurred during the 2012 election season, any and all
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1 events which in any way arise out of the implementation and/or execution of the
2 Stipulation; (2) for damages of any nature, whether past, present, or future, including
3 compensatory, general, special, or punitive; and (3) for costs, fees, or other expenses,
4 including attorneys' fees, incurred regarding those matters released herein.

5 The FPPC expressly acknowledges, agrees, and covenants, that this release
6 shall extend to all claims, whether or not known or suspected by the FPPC prior to the
7 execution of this release, and the FPPC agrees that this release shall constitute a
8 waiver of each and every one of the provisions of Civil Code, Section 1542, and any
9 similar law of any state or territory of the United States. Section 1542 provides that:
10 "A general release does not extend to claims which the creditor does not know or
11 suspect to exist in his favor at the time of executing the release, which if known
12 by him must have materially affected his settlement with the debtor."
13

14 The final judgment may be signed by any judge of the Superior Court of the State
15 of California, in and for the County of Sacramento, and entered by any clerk upon
16 application of any party without notice.
17

18 **CONCLUSION**

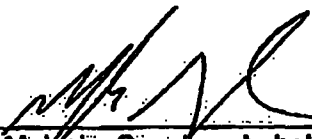
19 As the result of the aforementioned actions, the parties agree that Judgment
20 shall be entered against Defendants, and in favor of Plaintiff Fair Political Practices
21 Commission, as provided by this Stipulation.
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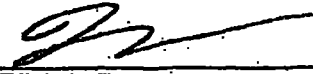
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1 IT IS SO STIPULATED:

2
3 Dated: 10/23/13


Malcolm Segal, on behalf of Center to Protect
Patient Rights, Defendant

5 Dated: 10/23/13


Thad Davis, on behalf of Americans for
Responsible Leadership, Defendant

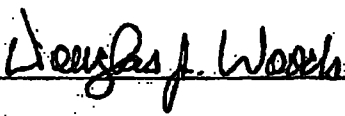
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Dated: 10/24/13

By: 
Gary Winuk, FPPC Chief of Enforcement
Attorney for Plaintiff FPPC

Dated: 10-24-13


Douglas Woods, Senior Assistant Attorney
General
Attorney for Plaintiff FPPC

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